



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Restrictions on schemes during the assessment period

135 Restrictions on winding up, discharge of liabilities etc

- (1) This section applies where there is an assessment period in relation to an eligible scheme.
- (2) Subject to subsection (3), the winding up of the scheme must not begin during the assessment period.
- (3) Subsection (2) does not apply to the winding up of the scheme in pursuance of an order by the Regulator under section 11(3A) of the Pensions Act 1995 (Regulator's powers to wind up occupational pension schemes to protect Pension Protection Fund) directing the scheme to be wound up (and section 219 makes provision for the backdating of the winding up).
- (4) During the assessment period, except in prescribed circumstances and subject to prescribed conditions—
 - [^{F1}(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules,]
 - (a) no transfers of, or transfer payments in respect of, any member's rights under the scheme rules are to be made from the scheme, and

Status: Point in time view as at 01/03/2017.

Changes to legislation: Pensions Act 2004, Section 135 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) no other steps may be taken to discharge any liability of the scheme to or in respect of a member of the scheme in respect of—
 - (i) pensions or other benefits, or
 - (ii) such other liabilities as may be prescribed.
 - (5) Subsection (4)—
 - (a) is subject to section 138, and
 - (b) applies whether or not the scheme was being wound up immediately before the assessment period or began winding up by virtue of subsection (3).
 - (6) Subsection (7) applies where, on the commencement of the assessment period—
 - (a) a member’s pensionable service terminates, and
 - (b) he becomes a person to whom [F2Chapter 2 of Part 4ZA] of the Pension Schemes Act 1993 (c. 48) (early leavers: cash transfer sums and contribution refunds) applies.
- Section 150(5) (retrospective accrual of benefits in certain circumstances) is to be disregarded for the purposes of determining whether a member falls within paragraph (a) or (b).
- (7) Where this subsection applies, during the assessment period—
 - (a) no right or power conferred by that Chapter may be exercised, and
 - (b) no duty imposed by that Chapter may be discharged.
 - (8) Where a person is entitled to a pension credit derived from another person’s shareable rights (within the meaning of Chapter 1 of Part 4 under of the Welfare Reform and Pensions Act 1999 (c. 30) (sharing of rights under pension arrangements)) under the scheme, nothing in subsection (4) prevents the trustees or managers of the scheme discharging their liability in respect of the credit in accordance with that Chapter.
 - (9) Any action taken in contravention of this section is void, except to the extent that the Board validates the action (see section 136).
 - (10) Disregarding subsection (9), where there is a contravention of this section, section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance with this section.
 - (11) The Regulator may not make a freezing order (see section 23) in relation to the scheme during the assessment period.

Textual Amendments

- F1** S. 135(4)(za) inserted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 58(3)**, 89(3)(b) (with s. 87)
- F2** Words in s. 135(6)(b) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 39** (with s. 87)

Modifications etc. (not altering text)

- C1** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/277\)](#), regs. 1(1), **2-11**
- C2** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1, **2-60**, 71, 72

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- C3** S. 135 modified (6.4.2005) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1(1)(d), **61**, 67(1)

Commencement Information

- I1** S. 135(1)-(3)(5)-(11) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I2** S. 135(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

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